

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 8, 2010

- D055313 Weiser v. Brown**
The judgment and its incorporated attorney fees order are affirmed.
Costs on appeal are awarded to respondent.
Huffman, Acting P.J.; We Concur: Nares, J., Haller, J.
- D058226 In re Adair on Habeas Corpus**
The petition is denied.
- D055866 People v. Rodriguez**
The judgment is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Benke, J.
- D056160 People v. Page**
The matter is remanded to the trial court to determine any additional presentence credits to which Page may be entitled under amended section 4019, and to modify the sentencing records accordingly. The judgment is affirmed in all other respects. McConnell, P.J.; We Concur: McDonald, J., O'Rourke, J.
- D056669 People v. Foster**
The judgment is affirmed. McConnell, P.J.; We Concur: Nares, J., Aaron, J.
- D056487 People v. Littlejohn**
The judgment is affirmed. McDonald, J.; We Concur: McConnell, P.J., Huffman, J.
- D057189 People v. Joyce**
Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)
- D056657 People v. Renfro**
The judgment is affirmed. Huffman, J.; We Concur: McConnell, P.J., Irion, J.
- D057883 N.T. v. D.T.**
Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 8, 2010 (Continued)

D058101 George R. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorneys for petitioners George R. and Rubi M. have notified the court that petitions for writs of mandate under California Rules of Court, rule 8.452 will not be filed as there are no viable issues for writ review. The attorneys' requests, on behalf of petitioners, for extensions of time to file petitions are denied. The case is dismissed.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and
 The Honorable Associate Justices Gilbert Nares and Cynthia Aaron
Clerk: D. Moore

D056811 People v. Bodnar

Cause called on merits. John L. Dodd, Esq. argued for appellant. Jason Argos, Certified Law Student, argued for respondent. Mr. Dodd replied. Cause submitted.

D055209 Viterbi et al. v. Wasserman

Cause called on merits. Frank E. Rogozienski, Esq. argued for appellant. Dan Lawton, Esq. argued for respondent. Mr. Rogozienski replied. Cause submitted.

Court recessed at 9:43 a.m. to change panel members.

New panel members: The Honorable Judith McConnell, Presiding Justice, and
 The Honorable Associate Justices Richard Huffman and Cynthia Aaron

D056774 Barnes v. Scripps Health

Patrick W. Barnes argued for appellant in pro per. Daisy LI-Brum, Esq. argued for respondent. Cause submitted.

D055946 Gold v. Oster

Cause called on merits. Michelle Gold, Esq. argued for appellant. Matthew B. Stucky, Esq. argued for respondent. Ms. Gold replied. Cause submitted.

Court recessed at 10:10 a.m. until 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 8, 2010 (Continued)

Court reconvened at 1:30 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and
The Honorable Associate Justices Richard Huffman and Gilbert Nares
Clerk: D. Moore

D055632 Advanced Network, Inc. v. Peerless Insurance Company
Cause called on merits. Frank Falzetta, Esq. argued for appellant.
Mark Anton Ginella, Esq. argued for respondent. Mr. Falzetta replied.
Cause submitted.

D056241 BH Partnership et al. v. Zytke et al.
Cause called on merits. David A. Baker, Esq. argued for appellant.
Rex S. Heinke, Esq. argued for respondent. Mr. Baker replied. Cause submitted.

Court recessed at 2:29 p.m. to change panel members.

New panel members: The Honorable Judith McConnell, Presiding Justice, and
The Honorable Associate Justices Richard Huffman and Cynthia Aaron

D057080 Deblois v. Grossmont Union High School District
Cause called on merits. Bradley A. Bartlett, Esq. argued for appellant.
Randall L. Winet, Esq. argued for respondent. Mr. Bartlett replied.
Cause submitted.

D056237 Pioneers Memorial Healthcare District v. Robert F. Kennedy Farm Workers Medical Plan
Cause called on merits. Karlene Rogers-Aberman, Esq. argued for appellant.
Erica Deutsch, Esq. argued for respondent. Ms. Aberman replied. Cause submitted.

D055967 MKJA, Inc., et al. v. 123 Fit Franchising, LLC et al.
Cause called on merits. Todd E. Lundell, Esq. argued for appellant, Ochoa and etc.
Marc Victor Allaria, Esq. argued for appellant, Severy and etc. Jeff Spreter, Esq.
argued for respondent, Martin and etc. Mr. Lundell replied. Cause submitted.

Court recessed at 3:44 p.m. until Tuesday, November 9, 2010 at 9:00 a.m.

D058460 TSA Contracting, Inc. v. Superior Court of San Diego County/Rio San Diego Plaza II Master, LLC et al.
The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 8, 2010 (Continued)

D058419 In re Rodriguez on Habeas Corpus
The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 9, 2010

- D058097 In re Corning on Habeas Corpus**
The petition is denied.
- D058237 Seahaus La Jolla Owners Association v. Superior Court of San Diego County/Weyerhaeuser Company et al.**
Let a peremptory writ of mandate issue directing the superior court to vacate the portions of its July 29 and September 15, 2010 orders directing Association to execute Weyerhaeuser's proposed stipulated confidentiality agreement and to conduct further proceedings consistent with the views expressed herein. The stay issued by this court on September 29, 2010, is vacated. Petitioner shall recover its costs. (Cal. Rules of Court, rule 8.493(a)(1)(A).) This opinion is made final as to this court seven days after this decision is filed. (Cal. Rules of Court, rule 8.490(b)(3).) Irion, J.; We Concur: McConnell, P.J., O'Rourke, J.
- D055846 People v. Saucedo**
The judgment is affirmed. McConnell, P.J.; We Concur: Nares, J., Irion, J.
- D055767 People v. Tran**
The judgment is affirmed. McConnell, P.J.; We Concur: Huffman, J., Aaron, J.
- D055968 People v. Allman**
The judgment is reversed solely as to the McKee claim. The matter is remanded to the trial court and the trial court is directed to suspend further proceedings on the McKee claim until the McKee case is finally resolved. The direction to suspend further proceedings does not preclude the trial court from consolidating or coordinating this case with other cases raising McKee claims, or from taking other similar steps necessary for the efficient administration of the trial court proceedings. Once the McKee case is finally resolved, the trial court is directed to conduct further proceedings consistent with the final resolution. In all other respects, the judgment is affirmed. McConnell, P.J.; We Concur: Huffman, J., Irion, J.
- D058409 In re Benda on Habeas Corpus**
The petition is denied.
- D057911 Brito v. Sommer**
The appeal is dismissed on the ground that the challenged orders are nonappealable discovery orders.
- D058339 In re Bravo, Jr. on Habeas Corpus**
The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 9, 2010 (Continued)

D058340 In re Bravo, Jr. on Habeas Corpus

The petition is denied.

D058397 In re Bravo on Habeas Corpus

The petition is denied.

D055018 Mepco Services, Inc. v. Saddleback Valley Unified School District

The request to publish additional portions of the opinion is denied.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and
 The Honorable Associate Justices Patricia Benke and Richard Huffman
Clerk: D. Moore

D055894 Talley v. Valuation Counsel Group, Inc., et al.

Cause called on merits. Garland Aycuff Kelley, Esq. argued for appellant, Valuation Counsel Group, Inc. Steven Wilson Bacon, Esq. argued for appellant, U.S. Trust Company of Texas, N.A., and etc. G. Patrick Connors, Esq. argued for appellant, Dhooge. Gary Alan Kurtz, Esq. argued for appellant, Kasirer and etc. Matthew R. Miller, Esq. argued for appellant, Talley. Kimberly Diane Howatt, Esq. argued for respondent, Clarey and etc. Mr. Kelley replied. Mr. Connors replied. Steven R. Skirvin, Esq. argued for appellant, Goldstein. Mr. Kurtz replied. Cause submitted.

Court recessed at 10:09 a.m. to change panel members.

New panel members: The Honorable Judith Haller, Acting Presiding Justice, and
 The Honorable Associate Justices James McIntyre and Terry O'Rourke

D056639 In re Pierre Meshack on Habeas Corpus

Matter called on merits. Gregory John Marcot, Deputy Attorney General, argued for appellant. Laura Arnold, Deputy Public Defender, argued for respondent. Matter submitted.

Court recessed at 10:27 a.m. to change panel members.

New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and
 The Honorable Associate Justices James McIntyre and Terry O'Rourke

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 9, 2010 (Continued)

D054803 Briarwood Capital, LLC v. Lennar Homes of California, Inc., et al.
D056061 Briarwood Capital, LLC v. Lennar Homes of California, Inc., et al.
Cause called on merits. Jon R. Williams, Esq. argued for appellant.
Daniel M. Petrocelli, Esq. argued for respondent. Mr. Williams replied.

Court recessed at 11:05 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and
 The Honorable Associate Justices Judith Haller and James McIntyre
Clerk: D. Moore

D055559 People v. Figueroa
Cause called on merits. Joanna McKim, Esq. argued for appellant.
Daniel Brian Rogers, Deputy Attorney General, argued for respondent.
Ms. McKim replied. Cause submitted.

D057162 Tran v. Arrellano
Cause called on merits. Christopher E. Angelo, Esq. argued for appellant.
Randall L. Winet, Esq. argued for respondent. Mr. Angelo replied.
Cause submitted.

D056010 Fernandez-Abin v. Sanchez
Cause called on merits. Victor Augustus Mordey, Esq. argued for appellant.
Martin Nebrida Buchanan, Esq. argued for respondent. Mr. Mordey replied.
Cause to be submitted at a later date.

D055442 Jacobs v. Kaiser Foundation Health Plan
Cause called on merits. Mary Lehman, Esq. argued for appellant.
Emily Tara Gates, Esq. argued for respondent. Ms. Lehman replied.
Cause submitted.

Court recessed at 3:00 p.m. to change panel members.

New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and
 The Honorable Associate Judith Haller and Terry O'Rourke

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 9, 2010 (Continued)

D056421 San Diego Coastkeeper v. California State Lands Commission et al.
Cause called on merits. Marco Antonio Gonzalez, Esq. argued for appellant. Hayley Elizabeth Peterson, Esq. argued for respondent, California State Lands Commission. Christopher W. Garrett, Esq. argued for real party in interest and respondent, Poseidon Resource Corporation and etc. Jeffrey A. Chine, Esq. argued for real party in interest and respondent, Carlsbad Municipal Water District and etc. Mr. Gonzalez replied. Cause submitted.

Court recessed at 3:45 p.m. until Wednesday, November 10, 2010 at 9:00 a.m.

D058323 Jennifer M. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency
The attorney for petitioner Jennifer M. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 will not be filed as there are no viable issues for writ review. Counsel's request, on petitioner's behalf, for an extension of time to file a petition is denied. The case is dismissed.

D058363 J.D. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency
The attorney for petitioner J.D. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 will not be filed as there are no viable issues for writ review. Counsel's request, on petitioner's behalf, for an extension of time to file a petition is denied. The case is dismissed.

D058309 D.Q. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency
The attorneys for petitioners D.Q. and James S. have notified the court that petitions for writs of mandate under California Rules of Court, rule 8.452 will not be filed as there are no viable issues for writ review. The attorneys' requests, on behalf of petitioners, for extensions of time to file petitions are denied. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 10, 2010

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and
The Honorable Associate Justices Gilbert Nares and Joan Irion
Clerk: D. Moore

D056026 In re S.A., a Juvenile
Cause called on merits. Jason Lee Nienberg, Esq. argued for appellant.
Christina Wong, Certified Law Student, argued for respondent. Mr. Nienberg
replied. Cause submitted.

D055646 People v. Nazary
Cause called on merits. Susanne C. Washington, Esq. argued for appellant.
Meredith Annsley Strong, Deputy Attorney General, argued for respondent.
Ms. Washington replied. Cause submitted.

Court recessed at 9:57 a.m. to change panel members.

New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and
The Honorable Associate Justices Alex McDonald and James McIntyre

D056754 In re Manuel Cass on Habeas Corpus
Matter called on merits. Steven Charles Sanders, Esq. argued telephonically for
petitioner. Gregory J. Marcot, Deputy Attorney General, argued for respondent.
Mr. Sanders replied. Matter submitted.

D057043 In re Curtis Sledge on Habeas Corpus
Matter called on merits. Michael Satris, Esq. argued for petitioner.
Gregory Marcot, Deputy Attorney General, argued for respondent.
Mr. Satris replied. Matter submitted.

D056226 In re Filberto Duran on Habeas Corpus
Matter called on merits. Stephen Michael Defilippis, Esq. argued for petitioner.
Michael P. Rhoads, Deputy Attorney General, argued for respondent.
Mr. Defilippis replied. Matter submitted.

Court recessed at 11:04 a.m. to change panel members.

New panel members: The Honorable Judith Haller, Acting Presiding Justice, and
The Honorable Associate Justices Alex McDonald and James McIntyre

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 10, 2010 (Continued)

D055338 People v. Collins

Cause called on merits. Anthony Edward Colombo, Esq. argued for appellant. Megan Bailie, Certified Law Student, argued for respondent. Mr. Colombo replied. Cause submitted.

Court recessed at 11:38 a.m. to change panel members.

New panel members: The Honorable Judith McConnell, Presiding Justice, and
 The Honorable Associate Justices Alex McDonald and Terry O'Rourke

D053953 Manoogian v. San Diego Unified School District

Cause called on merits. Bradley K. Moores, Esq. argued for appellant. Victoria E. Fuller, Esq. argued for respondent. Mr. Moores replied. Cause submitted.

Court recessed at 12:04 p.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and
 The Honorable Associate Justices Alex McDonald and Terry O'Rourke
Clerk: D. Moore

D056129 People v. Emembolu

Cause called on merits. Howard C. Cohen, Esq. argued for appellant. Jason Argos, Certified Law Student, argued for respondent. Mr. Cohen replied. Cause submitted.

D055522 Best Financial Consultants, Inc. v. Chapman et al.

Cause called on merits. James Neal Maynard, Esq. argued for appellant. John Schau, Esq. argued for respondent. Mr. Maynard replied. Cause submitted.

Court recessed at 2:08 p.m. to change panel members.

New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and
 The Honorable Associate Justices Alex McDonald and James McIntyre

D055232 Rogers v. Peterson

Cause called on merits. Carl Fabian, Esq. argued for appellant. John B. Little, Esq. was present in oral argument for appellant, but did not argue. Bradley Robert Blamires, Esq. argued for respondent. Mr. Fabian replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 10, 2010 (Continued)

Court recessed at 2:45 p.m. to change panel members.

New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and
The Honorable Associate Justices James McIntyre and Joan Irion

D055521 Losse v. Montano

Cause called on merits. Michael Losse argued for appellant in pro per.
Stephen Temko, Esq. argued for respondent. Mr. Losse replied. Cause submitted.

Court recessed at 3:19 p.m. to change panel members.

New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and
The Honorable Associate Justices Cynthia Aaron and Joan Irion

D055739 Almaraz et al. v. Sharp Healthcare et al.

Cause called on merits. Robert Anthony Cantore, Esq. argued for appellant.
Theodore R. Scott, Esq. argued for respondent. Mr. Cantore replied. Cause submitted.

Court recessed at 3:49 p.m. until Thursday, November 18, 2010 at 10:00 a.m.

D058002 In re D.B., a Juvenile

D058313 In re D.B., a Juvenile

Appellant's Motion for Case Consolidation; Request for Relief From Default;
Application for Extension of Time to File Appellant's Opening Brief is granted.
The two appeals are consolidated.

D057539 In re A. H., a Juvenile

The order is affirmed. O'Rourke, J.; We Concur: Haller, Acting P.J., Irion, J.

D055874 People v. Sebro

The judgment is affirmed.
Irion, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

D057421 In re Blake H., a Juvenile

The order dismissing the section 300 petition as to Blake and the finding the
Department did not make reasonable efforts to prevent or to eliminate the need for
Blake's removal from his home are reversed. The matter is remanded to the
juvenile court with directions to hold a new disposition hearing for Blake. In all
other respects, the findings and orders are affirmed.
Benke, Acting P.J.; We Concur: Nares, J., Haller, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 10, 2010 (Continued)

D058496 Baldwin v. Superior Court of San Diego County/Brown

The petition for writ of mandate and request for stay have been read and considered by Presiding Justice McConnell and Associate Justices Nares and Aaron. The petition is dismissed as moot in light of superior court's November 8, 2010, order reconsidering Christopher Baldwin's motion and granting summary judgment.

D055871 In re Marriage of Straczynski

The Petition for Modification of Opinion and Rehearing filed November 8, 2010, is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 11, 2010

Court Holiday

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 12, 2010

D058006 In re A.E., a Juvenile

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rules 8.412(d)(1)(A), and 8.416(g). The appeal is dismissed.